

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DWAYNE QUINEY,

Plaintiff,

vs.

LVMPD OFFICER KVAM, et al.,

Defendants.

Case No. 2:11-cv-00150-GMN-PAL

ORDER

(Mtn to Compel - Dkt. #25)

(Mtn to Move Case Forward - Dkt. ##33, 35, 37)

This matter is before the court on Plaintiff Dwayne Quiney's Motion to Compel Answers to Interrogatories (Dkt. #25), Defendants Anthony Kvam's and Deana Lopez's Opposition (Dkt. #30), Plaintiff's Motion to Move Case Forward (Dkt. #33), Defendants' Opposition (Dkt. #34), Plaintiff's Motion to Move Case Forward (Dkt. #35), and Defendants' Opposition (Dkt. #36). The court has considered the Motions and Oppositions.

Plaintiff is proceeding in this matter pro se and in forma pauperis. The court screened Plaintiff's Complaint (Dkt. #3) pursuant to 28 U.S.C. § 1915, dismissing Plaintiff's official capacity claims and allowing Plaintiff leave to amend his Complaint. Plaintiff filed an Amended Complaint (Dkt. #7), which the court also screened, recommending dismissal of the official capacity claims and directing service with respect to Plaintiff's claim under 42 U.S.C. § 1983 for a Fourth Amendment violation. *See* Order and Report of Findings and Recommendation (Dkt. #10). The District Judge affirmed and adopted the undersigned's recommendation and dismissed the official capacity claims. After Defendants answered the Amended Complaint, the court entered a Discovery Plan and Scheduling Order (Dkt. #18). Discovery closed on October 12, 2011, and there is currently a Motion for Summary Judgment (Dkt. #26) pending before the District Judge, which is now fully briefed.

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1 Plaintiff's Motion to Compel Answers to Interrogatories (Dkt. #25), filed on November 23,
2 2011, requests an order compelling Defendant Kvam to respond to sixty-six interrogatories, enumerated
3 in Plaintiff's motion. Defendants respond that the court advised Plaintiff at a hearing on their motion to
4 compel that discovery in this matter had closed, and Plaintiff could not propound written discovery
5 without a court order. Defendants contend they were never served with requests for written discovery
6 before Plaintiff filed this motion. Additionally, Plaintiff made no attempt to meet and confer before
7 filing this motion as required by Local Rule 26-7.

8 Plaintiff's Motion to Compel is denied. He asks the court to direct Officer Kvam to answer
9 interrogatories attached to his motion. Discovery closed on October 12, 2011. Plaintiff filed this
10 motion on November 23, 2011—nearly six weeks after discovery closed, more than a month after the
11 hearing held on October 23, 2011, and a week before the extended deadline to file dispositive motions.

12 With respect to the remaining motions—Plaintiff's Motions to Move Case Forward (Dkt. ##33,
13 35, 37)—it appears that they are actually surreplies to Defendants' Motion for Summary Judgment (Dkt.
14 #26). In each, Plaintiff restates the reasons the court should deny Defendants' Motion for Summary
15 Judgment and attempts to have the last word. Neither the Local Rules nor the Federal Rules of Civil
16 Procedure permit a party to file a surreply—that is, a second opposition filed after the movant has filed a
17 reply. The rules permit a motion, a response, and reply. Plaintiff's Motions to Move Case Forward are
18 denied and stricken. Additionally, Plaintiff is advised that filing duplicative requests causes
19 unwarranted expenditure of time, effort, and resources of both opposing counsel and the court and
20 unnecessarily multiplies these proceedings. Filing duplicative requests may result in sanctions.

21 For all the foregoing reasons,

22 **IT IS ORDERED:**

- 23 1. Plaintiff's Motion to Compel (Dkt. #25) is DENIED.
24 2, Plaintiff's Motions to Move Case Forward (Dkt. ##33, 35, 37) are DENIED and
25 STRICKEN.

26 Dated this 23rd day of February, 2012.

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PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE